

From: Kyra Kazantzis
Sent: Wednesday, August 30, 2006 5:36 PM
To: sunshine_reform_task_force@sanjoseca.gov
Cc: dp@metronews.com; edrast@ix.netcom.com
Subject:

Dear Sunshine Reform Task Force members:

Please find attached a copy of a letter that my organization Public Interest Law Firm sent the San Jose Police Department today. This letter illustrates some of the difficulties that public interest organizations have in obtaining public records for the purpose of in monitoring law enforcement activity in the City of San Jose.

Many of these difficulties stem from the fact that the San Jose Police Department routinely denies public access to SJPd incident reports, use of force reports, and other law enforcement records. The San Jose Police Department employs loopholes in the California Public Records Act to keep many of its records from public scrutiny. As a result of these practices, the local community faces significant obstacles when it comes to reviewing San Jose law enforcement practices.

Law enforcement agencies depend on community trust in order to be effective. Community trust in SJPd is especially important since officers rely heavily on the public for crime reports and investigative leads. When the San Jose Police Department refuses to divulge records to the public, it replaces that atmosphere of trust with one of suspicion.

Public Interest Law Firm believes that it would be good public policy for the San Jose Police Department to be required to respond to requests for records with a presumption in favor of transparency and disclosure.

Please let me know if you have any questions about this recommendation. I can be contacted at (408) 280-2401.

Sincerely,

Kyra Kazantzis
Directing Attorney
Public Interest Law Firm
a program of the Law Foundation of Silicon Valley
111 West St. John Street, Suite 315
San Jose, California 95110
Phone (408) 280-2401
Fax (408) 293-0106
www.lawfoundation.org

August 30, 2006

Chief Rob Davis
Lt. Gary Kirby
San Jose Police Department
210 West Mission Street
San Jose, CA 95110

Re: July 25, 2006 Public Records Act Request

Dear Chief Davis and Lt. Kirby:

I am writing in regards to your August 14, 2006, response to our July 25, 2006, California Public Records Act request. This Public Records Act request related to allegations of excessive force by the San Jose Police Department (SJPd) officers patrolling the Cinco de Mayo celebrations in San Jose on May 5, 2006.

In our request, we sought records relating to public activities that occurred on May 5, 2006, at or near the Story and King intersection in San Jose. We also sought all records related to SJPd monitoring or policing of these public activities.

You responded by stating:

The records you have requested are exempt from disclosure under California Government Code Section 6254(f) as records of "complaints to, or investigations conducted by...any...local police agency...or any investigatory...files compiled by any other...local police agency...."

We do not agree that these requested records are exempt from disclosure; your reading of this exemption is overbroad. But even if the exemption does apply, the Public Records Act does not require you to keep these records secret. Exemptions are discretionary.

We urge you to reconsider your decision and use your discretion to release the requested records. Full disclosure of information and openness encourages community trust while secrecy breeds suspicion. Community trust with the SJPd is especially important since officers rely heavily on the public for crime reports and investigative leads. We believe it would be good public policy for SJPd to approach requests for records with a presumption in favor of transparency and disclosure.

By blocking access to these records, you are preventing public service organizations like PILF from independently reviewing community allegations of police misconduct. This action does not serve the community well, nor does it advance the ability of the SJPd to effectively carry out its law-enforcement operations.

Again, we ask that you reconsider your decision and release the requested records. I can be reached at (408) 280-2401.

Sincerely,

Kyra Kazantzis
Directing Attorney